



Corporation Of The City Of Kingston

Ontario

By-Law Number 2020-151

A By-Law to Repeal and Replace By-Law Number 87-177, “A By-Law to Designate the Area within the Limits of the City of Kingston as an Area of Demolition Control”, as Amended

(Also Cited as the “Demolition Control By-Law”)

Passed: October 20, 2020

By-Law Number 2020-151

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Whereas Section 33 of the *Planning Act*, R.S.O. 1990, c. P.13, provides that when a by-law under Section 15.1 of the *Building Code Act*, 1992, S.O. 1992, c. 23, is in force in a municipality, the council of the municipality may, by by-law, designate any area within the municipality to which the standards of maintenance and occupancy by-law applies as an area of demolition control; and

Whereas pursuant to Section 15.1 of the *Building Code Act*, 1992, Council enacted By-Law 2005-100, “A By-Law for Prescribing Standards for the Maintenance and Occupancy of Property Within the City of Kingston”; and

Whereas pursuant to Section 33 of the *Planning Act*, Council enacted By-Law 87-177, “A By-Law to Designate the Area within the Limits of the City of Kingston as an Area of Demolition Control”, as amended; and

Whereas Council desires to repeal and replace By-Law 87-177, as amended; and

Whereas pursuant to Section 33 of the *Planning Act*, Council is responsible for the issuance of demolition permits in areas of demolition control; and

Whereas pursuant to Section 23.1 of the *Municipal Act*, 2001, S.O. 2001, c. 25, a municipality may delegate its powers and duties under the *Municipal Act*, 2001 or any other Act to a person or body, subject to and in accordance with the *Municipal Act*, 2001;

Therefore be it resolved that the Council of The Corporation of the City of Kingston hereby enacts as follows:

Definitions

1. For the purposes of this By-Law:

“**Chief Building Official**” means the person appointed under Section 3(2) of the *Building Code Act*, 1992, as the Chief Building Official for the City and includes her or his designate;

“**City**” means The Corporation of the City of Kingston;

“**Council**” means the Council of the City;

“**Director**” means the Director of Planning Services for the City and includes her or his designate;

“**Dwelling Unit**” or “**Dwelling Units**” means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals;

“Lands” means the lands on which the residential property to be demolished is situate; and

“Residential Property” means a building that contains one or more dwelling units, but does not include subordinate or accessory buildings, the use of which is incidental to the use of the main building.

Intent

2. The intent of this By-Law is to:
 - a. prevent the premature loss of housing stock and the creation of vacant land;
 - b. retain existing residential properties until new uses have been considered and plans approved;
 - c. prevent the premature loss of municipal assessment; and
 - d. maintain the integrity of existing residential neighborhoods.

Demolition Control Area

3. The geographic area of the City of Kingston is designated as an area of demolition control.
4. No person shall demolish a residential property, or any part thereof, unless that person is the holder of a demolition permit issued for the residential property in accordance with this By-Law.
5. Notwithstanding Section 4 above, this By-Law does not apply where:
 - a. the demolition does not reduce the number of dwelling units;
 - b. the residential property is owned by the City and the demolition is required for the implementation or construction of public works or services;
 - c. the residential property is a mobile home;
 - d. the residential property is exempted from this By-Law pursuant to any provincial or federal statute or regulation; or
 - e. the residential property has been deemed unsafe pursuant to Section 15.9 of the *Building Code Act, 1992*, and an order has been issued under that section.

Delegation of Authority

6. Council hereby delegates its authority to issue demolition permits pursuant to Section 33 of the *Planning Act* to the Chief Building Official, subject to the following conditions:
 - a. the Chief Building Official shall issue a demolition permit where a building permit has been issued to erect a new building on the lands, subject to Section 9 below;
 - b. where the Chief Building Official would recommend refusal of a demolition permit, she/he shall refer the application to Council for decision;
 - c. if the owner of the residential property does not consent to the conditions, if any, imposed on a demolition permit by the Chief Building Official, the Chief Building Official shall refer the application to Council for decision; and
 - d. the delegated authority hereunder does not include the power to issue or refuse to issue a demolition permit for a residential property that is listed or designated under the *Ontario Heritage Act*, R.S.O. 1990, c. O.18.
7. The Chief Building Official may, at her/his discretion, refer any demolition permit application to Council for a decision.

Demolition Permit Conditions

8. To obtain a demolition permit, the owner of the residential property, or an agent authorized in writing by the owner, shall file an application with the Chief Building Official in accordance with the City's Building By-Law 2005-99, as amended, and pay the prescribed fee set out in the City's Fees and Charges By-Law 2005-10, as amended.
9. A demolition permit issued pursuant to this By-Law may be subject to the following conditions:
 - a. that the owner construct and substantially complete the new building on the lands by no later than two (2) years from the date that demolition of the existing residential property is commenced; and
 - b. that failure to substantially complete the new building on the lands within the time specified on the permit shall entitle the City to enter on the collector's roll, to be collected in like manner as municipal taxes, the sum of money specified on the permit, which shall not exceed the sum of Twenty Thousand Dollars (\$20,000.00) for each dwelling unit contained in the residential property for which the demolition permit is issued, and that such sum shall, until paid, be a lien or charge upon the lands.
10. The City may require that a notice of any conditions imposed under Section 9 above be registered against title to the lands.

Revocation of Demolition Permits

11. If the Chief Building Official revokes a building permit issued under Section 8 of the *Building Code Act, 1992* in relation to the demolition of the residential property or construction of the new building on the lands, the Chief Building Official may revoke the demolition permit issued under this By-Law for the residential property.

Administration, Enforcement and Penalty

12. This By-Law shall be administered and enforced by the Director.
13. The Chief Building Official is authorized to undertake all acts necessary to carry out the powers delegated to her/him in this By-Law, including the authority to sign all required documents.
14. Every person who demolishes a residential property, or any portion thereof, in contravention of this By-Law is guilty of an offence and, on conviction, is liable to a fine of not more than Fifty Thousand Dollars (\$50,000.00) for each dwelling unit in the residential property that has been demolished.

Validity

15. Where a provision of this By-Law conflicts with the provision of another by-law in force in the City of Kingston, the provision that establishes the higher standard to preserve housing stock prevails.
16. If a Court of competent jurisdiction declares any provision, or any part of a provision, of this By-Law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this By-Law that each and every provision of this By-Law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.

Short Title of By-Law

17. This By-Law may be cited as the "Demolition Control By-Law".

Repeal of By-Law 87-177

18. By-Law 87-177, "A By-Law to Designate the Area within the Limits of the City of Kingston as an Area of Demolition Control", as amended, is hereby repealed in its entirety.

Effective Date

19. This By-Law shall come into force and take effect upon the date of its passing.

This By-Law was given three readings and passed October 20, 2020
